



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2020-0602; FRL-10022-54-Region 5]

Air Plan Approval; Ohio; Ohio Permit Fee Rule Removal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve under the Clean Air Act (CAA), a revision to Ohio's State Implementation Plan (SIP), submitted by the Ohio Environmental Protection Agency (OEPA) on November 12, 2020 and supplemented on February 11, 2021. OEPA is requesting to remove the Ohio Administrative Code (OAC) Permit Fees rule provisions from the Ohio SIP because they no longer exist and have been superseded by the fee system in Ohio's Title V permitting program and the Ohio Revised Code (ORC). OEPA rescinded the permit fee rules at the state level in 2003.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2020-0602 at <http://www.regulations.gov>, or via email to damico.genevieve@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **"FOR FURTHER INFORMATION CONTACT"** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Richard Angelbeck, Environmental Scientist, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-9698, angelbeck.richard@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background for our Proposed Action.

Ohio adopted OAC Chapter 3745-45 Permit Fee rules at the state level on November 24, 1973, and EPA approved the rules into Ohio's SIP on November 24, 1981 (46 FR 57490). Having OAC Chapter 3745-45 adopted into the SIP fulfilled the CAA section 110(a)(2)(K) requirement for Ohio to have a fee structure in place and to collect fees. The air permit fee requirements were then moved from CAA section 110(a)(2)(K) to CAA section 110(a)(2)(L) as a result of the 1990 CAA amendments. EPA approved (60 FR 42045) Ohio's Title V operating permits program on August 15, 1995. Ohio's Title V program relies on the air permit fee structure outlined by statute in ORC 3745.11.

Since Ohio no longer relied on OAC 3745-45 for its air permit fee system, Ohio rescinded OAC 3745-45 in stages at the state level with the final rule being rescinded in 2003. At that time, Ohio did not request recission of OAC 3745-45 from the SIP. On November 12, 2020, OEPA submitted a request to approve the removal of all of OAC Chapter 3745-45 from the SIP. In support, OEPA indicated that it is relying instead on the permit fee system in Ohio's Title V program, as contained in ORC 3745.11.

No emissions increases will result from the removal of OAC Chapter 3745-45 from the Ohio SIP. Because the rescinded OAC Chapter 3745-45 rules have been superseded by the Title V permit fee system as contained in ORC 3745.11, there are no CAA section 110(1) issues to address.

II. What Action is EPA Taking?

EPA is proposing to approve the removal of Ohio's OAC Chapter 3745-45 Permit Fee rule from the Ohio SIP. Removing OAC Chapter 3745-45 from the Ohio SIP is consistent with Federal regulations governing state permitting programs and would not interfere with reasonable further progress or attainment of any national ambient air quality standards.

III. Incorporation by Reference

In this document, EPA is proposing to amend regulatory text that includes incorporation by reference. EPA is proposing to remove the Chapter 3745-45 Permit Fees provisions of the EPA-Approved Ohio Regulations from the Ohio SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make the State Implementation Plan generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the "**FOR FURTHER INFORMATION CONTACT**" section of this preamble for more information).

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional

requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 8, 2021.

Cheryl Newton,
Acting Regional Administrator, Region 5.